



IT IS ORDERED

Date Entered on Docket: January 3, 2018

The Honorable Robert H Jacobvitz  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

IN RE:

Lynette Lee Field aka Lynette L. Koch aka Lynette L. Field

Debtor(s)

Case No. 17-12463-j13

**DEFAULT ORDER GRANTING RELIEF FROM STAY AS TO DEBTOR  
LYNETTE LEE FIELD DUE TO SECTION 4.4 OF DEBTORS PLAN AND  
MOTION FOR RELIEF FROM CO-DEBTOR STAY AS TO DALE R. KOCH  
AND TO ABANDON PROPERTY LOCATED AT 6932 SWEETBRIER AVENUE  
NW, ALBUQUERQUE, NM 87120**

This matter came before the Court on the Motion for Relief from Stay filed on November 20, 2017, Docket No. 20, (the “Motion”) by Wells Fargo Bank, N.A. (“Movant”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On November 20, 2017, Movant served the Motion and notice of the Motion (the “Notice”) on counsel of record for Debtor, Lynette Lee Field, and the case

trustee, Kelley L. Skehen, (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor(s) and US Trustee by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the following property:

6932 Sweetbrier Avenue NW  
Albuquerque, NM 87120

(c) The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which three days was added under Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on December 18, 2017.

(f) As of December 20, 2017, neither the Debtor nor the Trustee, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that on December 20, 2017 McCarthy & Holthus, LLP searched the data banks of the Department of Defense Manpower Data Center (“DMDC”) and found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

**IT IS THEREFORE ORDERED:**

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, although the Debtor can be named as a defendant in litigation to obtain an *in rem* judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

3. This Order does not waive Movant's claim against the estate for any deficiency owed by the Debtor after any foreclosure sale or other disposition of the Property. Movant may file an amended proof of claim in this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtor owes any amount after the sale of the Property.

4. This Order shall lift Co-Debtor Stay provided for by 11 U.S.C. § 1301 (c) as to the Movant only.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

###END OF ORDER###

**RESPECTFULLY SUBMITTED BY:**

/s/ Elaine Abeyta-Montoya  
**McCarthy & Holthus, LLP**  
**Elaine Abeyta-Montoya, Esq.**  
**Attorneys for Movant,**  
**6501 Eagle Rock NE, Suite A-3**  
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/s/ submitted electronically 12/21/2017  
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Copies to:

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**CASE TRUSTEE**

Kelley L. Skehen  
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**US TRUSTEE**

PO Box 608  
Albuquerque, NM 87103-0608

**SPECIAL NOTICE**

Synchrony Bank  
claims@recoverycorp.com

**BORROWER**

Dale R. Koch,  
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Albuquerque, NM 87120